

1 specifications that appear on Gulf Power's spec plates
2 that I have up on the screen, Plate C-1 through C-11,
3 if any one of those appear in the Southern Company
4 manual, which you have opined as modern and
5 reasonable, would these specifications therefore also
6 be modern and reasonable?

7 A That's a generalized question. If you
8 show me a specific plate or tell me that it's in both
9 places, I'll tell you my opinion.

10 Q If it is there, is it reasonable, Mr.
11 Harrelson?

12 MR. SEIVER: Objection. Asked and
13 answered, Your Honor.

14 MR. CAMPBELL: It was asked. It wasn't
15 answered.

16 JUDGE SIPPEL: Go ahead. I'm overruling
17 the objection.

18 THE WITNESS: I can't identify or relate to
19 what you're talking about. If you'll show me a plate
20 that you say is in both, I'll be glad to tell you if
21 I think it's reasonable.

22 BY MR. CAMPBELL:

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1 Q Let's start with C-1B that appears on the
2 screen right now. Can you see that, or do we need to
3 blow it up? Why don't you blow up that table?

4 MR. SEIVER: Could we have Mr. Harrelson
5 look at the exhibit book?

6 JUDGE SIPPEL: Do you have it in front of
7 you?

8 MR. SEIVER: No, he doesn't.

9 MR. CAMPBELL: Mr. Harrelson, would you
10 like to see the hard exhibit?

11 THE WITNESS: Yes.

12 MR. SEIVER: Exhibit 12, Mr. Harrelson.

13 JUDGE SIPPEL: I'll let him look at my
14 copy, because I can watch off the screen. Just give
15 it back to me.

16 BY MR. CAMPBELL:

17 Q Let's start with the dimension letter B
18 that relates to 12-inch separation. Are you with me,
19 Mr. Harrelson?

20 A Yes.

21 Q What is that dimension relating to?

22 A Separation in the span between supply

1 conductors of certain voltage level and communications
2 conductors. And B, 12 inches is a correct number, and
3 it's still correct in the code in the current
4 addition.

5 Q So that provision is also in the NESC?

6 A Yes.

7 Q In its current version?

8 A Yes.

9 Q So that specification is a modern
10 specification, correct?

11 A Yes.

12 Q If that specification also appears in the
13 Southern Company manual, would it therefore also be
14 reasonable?

15 A Well, yes. If it appears in the current
16 edition of the National Electric Safety Code, it's not
17 only reasonable, it's required. It's not
18 discretionary.

19 Q And that's my point. If any of the
20 dimensions that appear in spec plate C-1 through C-11
21 appear in the NESC, you would opine that they're
22 modern and up-to-date.

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1 A If it's the current edition of the NESC,
2 yes.

3 Q And if any one of these specifications
4 appear in the Southern Company manual, then you would
5 agree that they are modern and up-to-date.

6 A If they comply with the provisions of the
7 NESC. Yes.

8 Q Okay.

9 A There is --

10 JUDGE SIPPEL: Did you have something more
11 to add?

12 THE WITNESS: Well there is a requirement
13 on this plate that I don't think is on the NESC, and
14 I don't think it's in the Southern requirements.

15 BY MR. CAMPBELL:

16 Q And I'm going to venture a guess that that
17 is dimension letter D.

18 A Yes, it is.

19 Q Okay. Tell me about that, Mr. Harrelson.
20 Why do you disagree with that dimension?

21 A Because 12 inches separation between
22 communications drops is not practiced by the telephone

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1 company. It's not practiced by the cable operators.
2 It is not enforced by Gulf to any indication that I've
3 seen. It's not been enforced by Gulf, and it's not an
4 engineering consideration. It's not even a
5 requirement in the current code.

6 Q As you look at specification D on spec
7 plate C-1, am I accurate that that measurement is
8 taken at the pole, sir?

9 A Yes.

10 Q That's how you read dimension D?

11 A Yes.

12 Q And the code does require 12 inches
13 separation between messenger cables at the pole.

14 A That's not a messenger cable.

15 Q It's a service drop.

16 A Right.

17 Q So your testimony is that it's okay for
18 the service drops to be closer than 12 inches, but not
19 the messenger cables at the pole?

20 A The messenger is the steel strand that a
21 cable assembly is latched to. So it is definitely
22 different between messenger and cable as compared to

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1 drops.

2 So when the language in the code, which
3 was adopted new in 2000, stated 12 inches between
4 messenger attachments it meant, I believe, just that,
5 the messengers which cables are latched to. It didn't
6 address drops. And it was new in the code in 2000,
7 therefore it was not required prior to 2000.

8 And if any of these drops were placed --
9 well, it doesn't apply anyway. I'm now getting over
10 into cables, and I'll just hush with that.

11 Q Where does the drop come from, Mr.
12 Harrelson?

13 A It originates on a terminal of a cable.

14 Q It's part of the messenger cable, correct?

15 A No. No. The messenger and cable are two
16 separate pieces that form a cable assembly.

17 Q It's at the cable on the pole, correct?

18 A Yes. There's a terminal that the drop
19 fastens to, and then, the drop has to be fastened
20 either to that messenger, which is also called a
21 strand, which is typical for a cable operator to
22 attach drops to the strand. The telephone company

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1 typically attaches their drops directly to the pole,
2 and definitely not 12 inches away from their cable.

3 Q Am I accurate that you don't take
4 exception to any of the other dimensions that are set
5 forth on spec plate C-1.

6 A No. I don't think I do.

7 Q Can you go to the next page? Am I
8 accurate, Mr. Harrelson, that you don't take exception
9 with respect to any of the dimensions that are
10 represented on spec plate C-2?

11 A Those are correct.

12 Q And the 12 inches that's represented there
13 as a requirement between cable television and
14 telephone cables, that's something that's been around
15 for a long time, correct?

16 A It has been consistent guidance in the
17 telephone company literature for decades. And it has
18 been under a lot of situations varied from and
19 accepted by the telephone company and the power
20 company. And I think that's the reason that it was
21 made more clear and brought into the code in 2000.

22 Q It is now part of the code, correct?

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1 A It's part of the code if the facility was
2 constructed 2000 or later, I mean it applies to the
3 facility if it was constructed 2000 or later, and it
4 does have some exceptions even within the code.

5 Q Prior to its making its way into the code
6 in 2002, it was a requirement in Gulf Power's
7 specification plates, correct?

8 A Yes. It was in this plate.

9 Q Yes, sir. And it was a requirement of
10 other contracts that were out there in the industry,
11 as well, correct?

12 A That's correct. And I've made a
13 distinction between what's in writing and what's
14 actually required.

15 Q The 12-inch spacing that's so widely
16 accepted that it's accurate to refer to it as an
17 industry convention even prior to 2002. Isn't that
18 accurate?

19 A Well, no. I think my statement is
20 accurate, that it was adhered to at times and it was
21 not adhered to at times. And I think all of these
22 Osmose studies bear that out.

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1 Q Mr. Harrelson, could you turn to your
2 deposition on Page 44, please, sir?

3 A Yes, sir.

4 Q Deposition in this case.

5 MR. SEIVER: Deposition, Mr. Harrelson.

6 MR. CAMPBELL: Not your testimony, sir,
7 your deposition testimony.

8 JUDGE SIPPEL: All right. Let the witness
9 get there.

10 THE WITNESS: All right. I'm there.

11 BY MR. CAMPBELL:

12 Q Am I accurate, Mr. Harrelson, that at Line
13 17 on Page 44, you refer to the 12-inch separation as
14 a 12-inch convention?

15 A That's true.

16 Q You also call it a 12-inch guideline that
17 has been widely discussed among the cable operators,
18 the telephone company, in particular, but at that time
19 wasn't incorporated into the NESC, correct?

20 A That's correct.

21 MR. SEIVER: Can he read the rest?

22 MR. CAMPBELL: He can read all he wants.

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1 THE WITNESS: Yes. It has some conditions
2 on it at the bottom of Page 44. When it showed up in
3 the 2002 code, it's in there as they should be 12
4 inches apart.

5 BY MR. CAMPBELL:

6 Q They should. And I think your testimony
7 is that that establishes a normative standard and not
8 a mandatory standard.

9 A That's correct.

10 Q Do you have the NESC handbook with you,
11 Mr. Harrelson?

12 A There's one on the table over there.

13 JUDGE SIPPEL: This is Complainant's
14 Exhibit 12; is that correct?

15 MR. SEIVER: No, Your Honor. This is a
16 different exhibit. Is it a Gulf Exhibit 2, as well.

17 THE WITNESS: It is consistent with the one
18 you have in your hand, sir.

19 JUDGE SIPPEL: Right. I know that. But
20 I'm worried about the transcript not being --

21 MR. SEIVER: It is Complainant's Exhibit
22 12. I'm sorry, Your Honor.

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1 JUDGE SIPPEL: You got a page that we're
2 looking at?

3 MR. CAMPBELL: I'm looking for it, Your
4 Honor. This is not a document I've had a lot of time
5 with.

6 BY MR. CAMPBELL:

7 Q Would you go to Page 17 of the handbook,
8 please, sir?

9 A I'm not sure where to go.

10 Q Page 17.

11 A All right. I'm there.

12 Q I draw your attention to Section 015. It
13 says intent. Am I accurate, sir, that a should
14 requirement recognizes that the requirement may not be
15 practical in all cases. It is intended to be
16 mandatory where practical?

17 A That's correct.

18 Q Mandatory is not normative, is it, Mr.
19 Harrelson?

20 A That might a difference of interpretation.
21 The language here, the is a handbook used for
22 interpretation. But I don't disagree with this

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1 language, that it should be done where it's practical.

2 Q No, sir. It says it's mandatory where
3 it's practical. Correct?

4 A Okay. Mandatory. Okay.

5 Q Can we go back to Gulf Power Exhibit 12,
6 please, sir? Am I accurate, Mr. Harrelson, that the
7 12-inch separation requirement that appears on spec
8 plate C-2 there, Gulf Power's specifications, also
9 appears in some of the Complainant's own construction
10 specifications?

11 A That's correct.

12 Q Am I accurate, Mr. Harrelson, that at
13 least one of the Complainants also has a specification
14 in their construction contracts that is comparable to
15 measurement D on spec plate C-1 of Gulf Power's
16 specifications?

17 A Yes, they do.

18 Q You are familiar with a work called the
19 Recommended Practices for Coaxial Cable Construction
20 and Testing, are you not?

21 A Yes.

22 Q You relied on that in forming your opinions

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1 in this case, didn't you, Mr. Harrelson?

2 A I found one diagram in there that I
3 thought was significant.

4 Q Yes, sir. Am I accurate that in that work
5 that they also specify the 12-inch separation between
6 communications messengers on the pole?

7 A It is shown in there as a guideline. Yes.

8 Q Well, they use the same language as the
9 code, don't they? Don't they say telephone plant
10 separation should be at least 12 inches?

11 A That's correct.

12 Q They say, at least.

13 A Right.

14 Q That means it's a minimum, right?

15 A Well, they say it should be at least 12
16 inches.

17 Q Right. And where practical that's
18 mandatory, right?

19 A Right. Well, it is in the code now.

20 Q And it is where it was contractually
21 agreed to between the parties even prior to the code,
22 right?

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1 A No. That's where I have disagreed that if
2 it wasn't applied and it wasn't enforced, then it
3 wasn't practical. My real problem with the 12-inch
4 finding in Osmose was that it was used to claim that
5 a pole was at full capacity simply because two cables
6 might happen to be 11 inches apart.

7 It wasn't a code requirement. It doesn't
8 have anything to do with pole capacity. But it was
9 used to say, "This pole is at full capacity, and then,
10 let's move onto the next test."

11 If it's found to be important, then it's
12 an easy matter typically to move cables up or down on
13 a pole, but that's make-ready.

14 MR. CAMPBELL: Yes, sir. I appreciate
15 that. But I don't think there was a question pending
16 just then.

17 THE WITNESS: Well, we're discussing the
18 12 inches.

19 JUDGE SIPPEL: No. This isn't a
20 discussion. You're being cross-examined, so bear with
21 us. You have to let the counsel control the order of
22 the questioning and just try to respond to them.

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1 THE WITNESS: Yes, sir.

2 BY MR. CAMPBELL:

3 Q Mr. Harrelson, I'm going to hand you a
4 document that has been marked for identification
5 purposes, sir as Gulf Power Exhibit 78. You've seen
6 this document before, correct?

7 A Yes, I have.

8 Q These are the ComCast Cable construction
9 specifications and installation manual.

10 JUDGE SIPPEL: It will be identified as
11 Gulf Power's Exhibit Number 78.

12 (Whereupon, the above-mentioned
13 document was marked as Gulf
14 Power Exhibit Number 78 for
15 identification purposes.)

16 THE WITNESS: That's correct. The 1985
17 edition.

18 BY MR. CAMPBELL:

19 Q Am I accurate that in 1985, Complainant
20 ComCast, looking at Page 2 of this document, Mr.
21 Harrelson, required 12 inches of separation between a
22 cable television and a telephone cable?

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1 A Is it numbered Page 30, the one you're
2 looking at? You're calling it Page 2, but --

3 Q Actually, let's look at Page 31 is the
4 actual number within the document. It happens to be
5 the third page of the exhibit. Am I accurate that
6 ComCast in 1985 set 12 inches as a minimum for
7 separation between a cable television cable and a
8 telephone cable?

9 A That's what's depicted in that drawing.
10 And there's a different drawing on the previous page.

11 Q Is it accurate, Mr. Harrelson, that they
12 on the same page said 24 inches separation at that
13 time was standard?

14 A Yes, that's what was in the ComCast
15 specification in 1985.

16 Q And you take issue that Osmose looked at
17 separation on Gulf Power's poles that were less than
18 12 inches, correct?

19 A No, sir.

20 Q You don't take issue to that?

21 A Not that they looked at it. I take issue
22 with the fact that that was used as a reason for

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1 determining or concluding that a pole was at full
2 capacity.

3 Q Wasn't it also considered along with other
4 attributes, Mr. Harrelson.

5 A Yes.

6 Q For example, the 40-inch clearance between
7 power wire and the --

8 A I mean a lot of different attributes were
9 considered, but any one of which would cause that pole
10 to be considered at full capacity, as I understand it.

11 Q If a new attachment were made to one of
12 the poles and there is less than 12 inches separation
13 on the pole, that would have to be corrected, wouldn't
14 it?

15 A It should be corrected if that new
16 attachment was made after 2002. To be consistent with
17 the code, it would have to be corrected if there was
18 not another reason why it was not practical.

19 Q You do a lot of work for electric
20 cooperatives, correct?

21 A I do.

22 Q You're familiar with the RUS?

1 A Yes.

2 Q Could you please explain to the court what
3 the RUS is?

4 A It's an acronym for the Rural Utility
5 Service division of the Department of Agriculture. I
6 believe it's previously called REA, Rural
7 Electrification Administration. That's RUS.

8 Q Do they have standard construction
9 specifications that relate to joint use issues?

10 A RUS has standard construction
11 specifications. I don't recall if their construction
12 standards has a joint use section. I have seen some
13 plates on model contracts and things of that nature
14 that were published by RUS that was not part of the
15 distribution line specification.

16 MR. CAMPBELL: I'd like to hand the witness
17 a document that's been marked for identification
18 purposes as Gulf Power Exhibit 79.

19 JUDGE SIPPEL: It's identified as your
20 Exhibit 79.

21 (Whereupon, the above-mentioned
22 document was marked for

1 identification as Gulf Power
2 Exhibit 79.)

3 MR. CAMPBELL: I represent to you that this
4 is a set of specifications relating to Choctawhatchee
5 Electric co-operative, referred to in this case as
6 CHELCO.

7 BY MR. CAMPBELL:

8 Q Have you seen spec plates like these
9 before relating to a co-operative?

10 A I have. And they were attached to a model
11 contract that was circulated by the RUS in the early
12 '90s.

13 Q And you've seen that model contract,
14 correct?

15 A Yes.

16 Q In fact, you have in your office.

17 A Yes.

18 Q Am I correct, Mr. Harrelson, that drawing
19 Number 2 of Exhibit 79 captures that 12-inch
20 convention for separation between cable television and
21 the telecommunications wires on the pole?

22 A That's correct.

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1 Q And you said that was circulated in 1990?

2 A In the early '90s. I believe it was '92.

3 JUDGE SIPPEL: This is the 12 inches you're
4 referring to on separation?

5 MR. CAMPBELL: Yes, sir.

6 BY MR. CAMPBELL:

7 Q Can we go back to Gulf Power Exhibit 12?

8 Are all of the dimensions represented on Spec Plate C-
9 2 currently found in the code, Mr. Harrelson?

10 A Yes. With the qualifiers that we've
11 already discussed. Yes.

12 Q Could you turn to Spec Plate C-3, sir?

13 JUDGE SIPPEL: Do you want to look at this
14 copy?

15 THE WITNESS: Please. Thank you.

16 BY MR. CAMPBELL:

17 Q Have you had a chance to look at it, Mr.
18 Harrelson?

19 A Yes.

20 Q Am I accurate in saying that all of the
21 dimensions and specifications set forth on Spec Plate
22 C-3 appear in the code today?

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1 A Yes.

2 Q Could you turn to Spec Plate C-4, Mr.
3 Harrelson?

4 A I have it.

5 Q Is it accurate to say all of the
6 dimensions represented on Spec Plate C-4 are found in
7 the code today?

8 A That's correct.

9 Q Would you turn to Spec Plate C-5, please,
10 sir?

11 A Okay.

12 Q Is it accurate to say the 40-inch
13 dimension that is depicted in this spec plate is found
14 in the code today?

15 A Not entirely.

16 Q Okay. Please explain your answer.

17 A Where it says "GPC cable or neutral", the
18 neutral in the code in the Southern Company plates is
19 acknowledged an exception, where the neutral can be 30
20 inches separated from communications cables so long as
21 the communications cable is bonded to the pole ground,
22 as it is in this photograph or as it is in this

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1 drawing.

2 Q So the code has an exception that Gulf
3 Power's specifications don't recognize, correct?

4 A That's correct.

5 Q Am I accurate, sir, that many electric
6 utilities refuse to recognize the exception with
7 respect to joint use spacing?

8 A At one level or another, that's correct.

9 Q And they do that because they don't want
10 cable television contractors out in the field trying
11 to distinguish between a bonded neutral wire or making
12 some distinction between the lines, correct?

13 A I have no way of knowing what they want?

14 Q Does that make sense to you?

15 A No because the National Electric Safety
16 Code is the standard for safety and it need not be
17 exceeded for purposes of safety. That's very clear.
18 So there's no need to exceed the national standard
19 when it comes to matters of safety. They may do so
20 for other purposes.

21 Q And many electrical utilities choose to
22 exceed some of those NESC standards, correct?

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1 A They choose to exceed those, and I would
2 like to add, if I may, that it's very appropriate to
3 exceed those on initial construction and allow for
4 expansion or growth of facilities on the pole. But as
5 it approaches being full on that particular
6 installation, then the National Electric Safety Code,
7 in my opinion, should be the standard, with very few
8 exceptions.

9 Q Mr. Harrelson, I'm showing you a document
10 I marked for identification purposes as Gulf Power
11 Exhibit 80.

12 JUDGE SIPPEL: Identified as your 80.

13 (Whereupon, the above-mentioned
14 document was marked as Gulf
15 Power Exhibit 80 for
16 identification purposes.)

17 BY MR. CAMPBELL:

18 Q What the SEE, sir?

19 A I think it might stand for the
20 Southeastern Electric Exchange.

21 Q You don't know what that is?

22 A Well, I think that's what it stands for.

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1 And I think it's a trade organization.

2 Q And you've had experience with the SEE
3 when you were here in this industry, correct?

4 A No. I've just read about it.

5 Q You've just read about it? You've seen
6 this SEE survey before, correct?

7 A Yes. I've seen it before.

8 Q We talked about it at your deposition,
9 right?

10 A Yes.

11 Q Could you explain what it is?

12 A To what level of detail?

13 Q Just generally. What is this document?

14 A I could tell you who generated it and a
15 number of things. But I think maybe it's sufficient
16 to say that it was represented to me to be a telephone
17 survey of people who answered the phone at different
18 utilities and answered to these questions.

19 Q And it was submitted in response to some
20 expert testimony you tendered in a different case,
21 correct?

22 A Yes, it was submitted.

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1 Q Right. And the survey of the nine
2 utilities in that case concluded that six of the nine
3 surveyed did not allow or recognize that exception
4 that we just talked about with respect to the spacing
5 between a communications cable and the neutral wire on
6 a pole. Is that accurate?

7 MR. SEIVER: I just object to the
8 characterization, Your Honor. The document speaks for
9 itself.

10 MR. CAMPBELL: The witness characterized
11 it. I didn't.

12 MR. SEIVER: Not that way.

13 BY MR. CAMPBELL:

14 Q Is that accurate, Mr. Harrelson.

15 A There's a question on this list questions.
16 And as I indicated, I'm not sure what the electric
17 companies were that were contacted, I'm not sure what
18 the knowledge or identity of the person who answered
19 on behalf of the electric utility was. But assuming
20 that all of this is completely representative of the
21 official opinion of different electric utilities,
22 three do allow 12 inches in the span and 30 inches at

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